

1 HARVEY P. SACKETT (72488)

2 **S A C K E T T**  
**AND ASSOCIATES**  
3 A PROFESSIONAL LAW CORP.

4 548 Market Street, Suite 38822  
5 San Francisco, California 94104-5401  
6 Telephone: (408) 295-7755  
7 Facsimile: (408) 295-7444  
8 Email: hps@sackettlaw.com

9 Attorney for Plaintiff

10 HPS/as

11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA  
13 SACRAMENTO DIVISION

14 TAYA J. MILLER, ) Case No.: 2:22-cv-00798-JDP  
15 Plaintiff, )  
16 v. ) STIPULATION AND [PROPOSED]  
17 KILOLO KIJAKAZI, ) ORDER FOR THE AWARD AND  
18 Acting Commissioner of Social Security, ) PAYMENT OF ATTORNEY FEES  
Defendant. ) PURSUANT TO THE EQUAL  
 ) ACCESS TO JUSTICE ACT, 28  
 ) U.S.C. § 2412(d)  
-----)

19 On September 25, 2023, this Court issued an order reversing the final decision of the  
20 Defendant, Kilolo Kijakazi, the Acting Commissioner of Social Security (Commissioner), with a  
21 remand a rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.  
22

23 In the interest of administrative and judicial economy, the parties have agreed to stipulate  
24 that an award of FOUR THOUSAND SIX HUNDRED DOLLARS AND ZERO CENTS  
25 (\$4,600.00) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d),  
26 is reasonable. This award is without prejudice to Plaintiff's right to seek attorney's fees under  
27 section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), subject to the offset provisions of  
28

1 the EAJA. However, this award shall constitute a complete release from and bar to any claims  
2 Plaintiff may have relating to EAJA fees and costs. Further, such award shall not be used as  
3 precedent in any future cases, nor be construed as a concession by the Commissioner that the  
4 original administrative decision denying benefits to Plaintiff was not substantially justified.

5 After the Court issues an order for EAJA fees to Plaintiff, the Government will consider  
6 the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel"). Pursuant to  
7 *Astrue v. Ratliff*, 560 U.S. 586 (2010), the ability to honor an assignment will depend on whether  
8 the fees are subject to any offset allowed under the United States Department of the Treasury's  
9 Offset Program. After the order for EAJA is entered, the Government will determine whether  
10 they are subject to offset. Fees shall be made payable to Plaintiff, but if the Department of  
11 Treasury determines Plaintiff does not owe a federal debt, then the Government shall cause the  
12 payment of fees, expenses, and costs to be made payable directly to Counsel, pursuant to the  
13 assignment executed by Plaintiff. Any payments made shall be delivered and made payable to  
14 Counsel.

15 Accordingly, Defendant agrees to pay Plaintiff \$4,600.00 in attorney's fees.

16 All parties whose signature lines appear in this document have consented to its filing.  
17 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P. Sackett  
18 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause  
19 provisions of the EAJA.

20 ///

21 ///

22 ///

23 ///

24 ///

25

26

27

28

1 Dated: November 13, 2023

SACKETT AND ASSOCIATES

2 By: /s/ HARVEY P. SACKETT  
3 HARVEY P. SACKETT  
4 Attorney for Plaintiff  
TAYA J. MILLER

5 Dated: November 15, 2023

PHILLIP A. TALBERT  
6 United States Attorney

7 By: /s/NOAH SCHABACKER  
8 NOAH SCHABACKER  
9 Special Assistant United States Attorney  
Attorney for Defendant  
[\*As authorized by email on 11/13/23]

11 **ORDER**

12 IT IS SO ORDERED.

14 Dated: November 15, 2023

  
15 JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE

28  
SACKE  
T  
AND ASSOCIATES  
A PROFESSIONAL LAW CORP.  
548 Market Street, Suite 3882C  
San Francisco, CA 94104-5401  
(628) 204-4644  
(408) 295-7755  
3  
STIPULATION AND [PROPOSED] ORDER FOR THE AWARD AND PAYMENT OF ATTORNEY FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)